

I. DECLARATION OF POLICY STATEMENT

It is the policy of the City of Greensboro to: (1) provide minorities, women, persons with disabilities, and persons who are socially or economically disadvantaged an equal opportunity to participate in all aspects of City contracting and purchasing programs, including, but not limited to, participation in procurement contracts for materials, services, construction and repair work activities, and lease agreements; (2) prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, color, sex, religion, disability or national origin; and (3) to conduct its contracting and purchasing programs so as to prevent any discrimination.

The City of Greensboro, with the assistance of M/WBE groups and agencies, will actively seek to identify qualified minorities, women, persons with disabilities, and persons who are socially or economically disadvantaged and offer them an opportunity to provide goods and services to the City. It is the intent of this program to widen opportunities for participation, increase competition and to ensure the proper and diligent use of public funds.

II. OBJECTIVES AND STRATEGIES

The objectives of the M/WBE Plan are:

1. To provide minorities, women, persons with disabilities, and persons who are socially or economically disadvantaged an equal opportunity for participating in City construction, contracting, professional services and procurement programs;
2. To provide procedures that will enable the City to fulfill requirements of the federal and state governments related to minority and women business enterprise participation in its construction and procurement programs;
3. To increase the City's knowledge of minority and women business enterprises and become familiar with their product lines;
4. To assist eligible firms in becoming certified and keep such firms informed of professional service needs, procurement needs, purchasing procedures, and potential construction projects;
5. To sponsor special seminars and training programs to assist M/WBEs in becoming actively involved both in procurement and subcontracting in large contract projects; and
6. To provide procedures for monitoring compliance with the M/WBE program and to provide procedures for the resolution of complaints of discrimination against businesses holding construction or equipment/services contracts with the City.

It is the intent of this program to widen opportunities for M/WBE participation and increased competition. To realize the objectives of this program, the City has established the respective responsibilities of all parties and, to this end, the City urges all M/WBEs to fully utilize the opportunities this program seeks to ensure and to accept the responsibility of (1) participating in training opportunities, (2) prompt and competitive responses for requests for quotations and (3) use of information provided by the City on prospective bidders and the services/materials they may be seeking to provide competitive quotes to bidders.

III. DEFINITIONS

Affirmative Action – Specific steps to fully involve M/WBEs in City contracts and programs.

Bidder/Participant – Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

Contract – A mutually binding legal relationship or any modification thereof, obligating the seller to furnish equipment or services, including construction and leases, and obligating the seller to pay for them.

Contractor – Any person, firm, partnership, corporation, association or joint venture which has been awarded a public contract or lease, including every subcontract on such a contract.

Discrimination – To distinguish, differentiate, separate and/or segregate on the basis of age, race, religion, color, sex, national origin, handicap and/or veteran's status.

Equipment – Includes materials, supplies, commodities, and apparatus.

Goal – A voluntary percentage or numerical objective.

HUB – A business which is certified by the North Carolina Secretary of Administration as a historically underutilized business. However, the business may also be one that is owned and controlled by one or more persons who are not African-American, Native American, Hispanic or female.

Joint Venture – An association of two or more businesses to carry out a single business enterprise for profit, for which purpose they combine their property, capital, efforts, skills, and knowledge.

M/WBE – A minority or women business enterprise.

Minority or Women Business Enterprise (M/WBE) – A business which is certified by the North Carolina Secretary of Administration as a historically underutilized business.

Subcontractor – Any named person, firm, partnership, corporation, association, or joint venture identified in a public contract which supplies any work, labor, services, supplies, equipment, materials, or any combination of the foregoing under contract with the contractor on a public contract.

IV. ADMINISTRATION OF THE M/WBE PROGRAM

The City Manager is hereby authorized to take all usual and legal administrative actions necessary to implement this program. Notwithstanding any specific assignment contained in the plan, the ultimate responsibility for its administration is assigned to the City Manager. The City Manager will designate a M/WBE Program Coordinator who works directly with City department and division heads to achieve overall M/WBE utilization goals as established by City Council. All City staff services specifically assigned by the plan shall be responsible for implementing the M/WBE Plan in cooperation with the M/WBE Program Coordinator under the general supervision of the City Manager or their designee.

This program shall apply to all construction, procurement and professional service programs administered by the City of Greensboro. The provisions of this program take precedence over any departmental plans or procedures in conflict herewith, except for specific requirements mandated by state law or the terms of agreements enforced between the City and federal government or the State of North Carolina that require different procedures than those described in this program.

V. M/WBE DATA BANK DIRECTORY

The North Carolina Secretary of Administration shall maintain a database of all firms who are certified as M/WBE for the purposes of this plan. This information is to be made available to the public at large and all prospective contractors and shall be used by the City in notifying certified M/WBEs of contract opportunities.

All firms wishing to participate in the City's M/WBE program shall be requested to provide sufficient information to the North Carolina Secretary of Administration to be recognized as M/WBEs.

Utilizing the information in the data bank described above, the City will make available a directory to facilitate identifying M/WBEs with stated capabilities relative to general contracting, procurement, and professional service requirements.

VI. M/WBE ADVISORY COMMITTEE

The M/WBE Advisory Committee is established to advise City Administration on the implementation of the M/WBE Plan and facilitate the participation of minorities, women, persons with disabilities, and persons who are socially or economically disadvantaged in City contracting. The functions of the committee include Advocacy, Education, and Policy Review.

The Committee will consist of eleven (11) members appointed by the City Manager for two (2) terms of three (3) years each. Members shall have knowledge of the minority/women business community as it relates to economic development. The Committee shall select its own chairperson, vice-chairperson, and secretary to serve a one (1) year term. The secretary may be either a member of the committee or a City employee. The M/WBE Program Coordinator shall serve as an ex-officio, non-voting member of the Advisory Committee. The M/WBE staff will provide administrative support to the Committee.

The following interests may be represented on the Committee as outlined:

1. The Center for Entrepreneurship;
2. Small Business and Technology Development Center;
3. Greensboro Chamber of Commerce;
4. Guilford Technical Community College/Small Business Assistance Center;
5. Carolina Associated General Contractors;
6. Certified M/WBE in Construction;
7. Certified M/WBE in Procurement;
8. Certified M/WBE in Professional Services;
9. General Contractor;
10. Professional Services Consultant;
11. NAACP;
12. Greensboro Commission on Human Relations; and
13. Greensboro Commission on the Status of Women.

The Advisory Committee has the following duties:

1. To recommend guidelines for the implementation of the M/WBE Program;

2. To monitor goal accomplishments and make recommendations for changes in goals;
3. To maintain contact with the business community and elicit cooperation for economic development of M/WBE firms;
4. To review M/WBE contracting problems and make further recommendations to increase M/WBE participation in City contracting;
5. To select a representative to serve as a voting member of the Good Faith Committee;
6. To recommend training and technical assistance programs for M/WBE firms to enhance the ability of the M/WBE firms to compete for City contracts;
7. To prepare an annual report to be submitted to the City Administration; and
8. To perform such other duties as may be assigned from time to time by the City Manager.

VII. PROCEDURES TO ENSURE EQUAL OPPORTUNITY FOR M/WBEs TO COMPETE FOR CONTRACTS AND SUBCONTRACTS

A. Responsibilities of the City - Construction

The City of Greensboro shall take affirmative action to ensure equal opportunity to contract with M/WBEs and to ensure that its contractors take similar action with M/WBEs. Those actions shall include those matters hereinafter set out. Except when required by applicable law, the procedures set out herein may be waived under extraordinary circumstances or when the City Manager, or their designee, deems that it is in the best interest of the City of Greensboro to do so.

1. Preparation of Formal Bid Packages

The operating departments shall include in contract specifications specific instruction and procedures to define M/WBE compliance requirements and shall review the purpose, procedures, and plans for meeting M/WBE goals for construction projects in pre-bid meetings. The City will review all City projects, regardless of amounts, to determine the possibility of subdividing. Bid packages shall not be so divided as to violate state law.

2. Advertising for Formal Construction Bids

For all construction projects in the amount provided by N.C.G.S. 143-129, or any local act pertaining to, a period of at least thirty (30) days will be given between advertising the bid notice and the date of the opening of bids. All bid notices for construction projects in the amount provided by N.C.G.S. 143-129, or any local act pertaining thereto, or greater shall be advertised in a daily newspaper having general circulation in the area for which bids are requested. The operating departments will ensure that bid notices are supplied to the North Carolina Interactive Purchasing System, Small Business Administration, M/WBE trade associations, technical assistance agencies and minority economic development groups.

3. Pre-Bid Conference on Formal Construction Contracts

The City shall work with the Project Engineer and with the City's M/WBE Program Coordinator to define elements of the total work available for subcontracting in order to facilitate increased M/WBE participation. The City shall hold a pre-bid conference for all prospective bidders and M/WBEs for the purpose of: explaining the provisions and applications of this program; answering questions regarding the process for bidding; and answering questions concerning the contract work to be performed. Information on M/WBEs interested and/or capable of engaging in the prospective contract shall be made available to prospective bidders, contractors, and subcontractors through the North Carolina Secretary of Administration. The City's M/WBE Program Coordinator or designee shall attend pre-bid conferences.

4. Communications Program for Construction

a. On-going Communications Program

The operating departments shall, pursuant to the approval of the annual budget, forward to the M/WBE Program office, a complete description of all construction projects planned for the year. For those projects which are developed after the annual budget is approved, a complete description of such projects shall be forwarded to the M/WBE office. Upon request, the City will make available a list of proposed procurement and construction projects and brief descriptions of each to M/WBEs, M/WBE associations, assistance agencies, and training resources. A copy of this list will be maintained in the M/WBE office. The City will provide a listing of all City construction programs and projects on its website.

The City will conduct workshops where M/WBEs will have an opportunity to receive assistance in completing bid forms and receive clarification of any areas of contracts in which there are questions (not including estimates for any specific project).

b. Communications Relevant to Specific Construction Projects

When the City receives from bidders a listing of items of work for which subcontractors and materials are being sought, the City shall post to the North Carolina Interactive Purchasing System a description of the opportunities available and guidance concerning where M/WBEs can secure additional information.

5. Other Technical Assistance

The City shall periodically hold workshops, seminars, or training sessions designed to acquaint M/WBEs with the City's contracting procedures, to provide technical assistance in bidding, licensing, bonding, loan preparation and packaging, and other procedures involved in securing City contracts. The City shall utilize the services of minority/women trade and professional organizations. The City's M/WBE Program Coordinator shall be responsible for achieving this goal.

6. Provision for Informal Construction Projects

For construction projects in an amount less than the amount provided in N.C.G.S. 143-129, or any local act pertaining thereto, the operating departments shall include on its bid list for direct solicitation those M/WBEs certified by the North Carolina Secretary of Administration, possessing capabilities relevant to the project and having their principal place of business located in Guilford, Alamance, Davidson, Forsyth, Randolph, Rockingham, Stokes or Yadkin counties. For construction projects less than \$30,000.00, the M/WBE Program Coordinator shall provide to the operating departments a listing of all M/WBEs certified by the North Carolina Secretary of Administration, possessing capabilities relevant to the project and having their principal place of business located in Guilford, Alamance, Davidson, Forsyth, Randolph, Rockingham, Stokes or Yadkin counties, if requested.

7. Payments

The City will meet its payment obligations in accordance with established City policy. Nevertheless, payments for construction contracts and for products and commodities are to be paid within thirty (30) days after receipt of an approved invoice.

B. Responsibilities of the City – Procurement

The City of Greensboro shall take affirmative action to ensure equal opportunity for all M/WBEs to compete for all apparatus, supplies, materials and equipment. M/WBE participation is encouraged through the competitive bid process. Those actions shall include those matters hereinafter set out. Except when required by applicable law, the procedures set out herein may be waived under extraordinary circumstances or when the City Manager, or their designee, deems that it is in the best interest of the City of Greensboro to do so.

1. Preparation of Formal Bid Packages

The operating departments shall include in contract specifications specific instructions requiring contractors to not discriminate in its hiring, employment and contracting practices with reference to age, sex, race, color, religion, national origin or disability. The City will review all City purchases, regardless of amounts, to determine the possibility of subdividing. Whenever possible and practical, requests for bids and proposals to provide equipment or services will be subdivided into contractual work elements small enough to make possible maximum M/WBE participation at contractual levels. Bid packages shall not be so divided as to violate state law.

2. Advertising for Formal Bids

For all purchases of apparatus, supplies, materials or equipment in the amount provided by N.C.G.S. 143-129, or any local act pertaining to, or greater a period of fifteen (15) days will be given between advertising the bid notice and the date of the opening of bids. All bid notices for purchases in the amount provided by N.C.G.S. 143-129, or any local act pertaining to, or greater will be advertised. The City will ensure that bid notices are supplied to M/WBE trade associations, technical assistance agencies, minority economic development groups and M/WBEs with capabilities relevant to the bid notices as identified by the North Carolina Secretary of Administration.

For procurements in the amount of N.C.G.S. 143-129, or any local act pertaining thereto, or greater the City will directly solicit those M/WBEs certified by the North Carolina Secretary of Administration, possessing capabilities relevant to the project and having their principal place of business located in Guilford, Alamance, Davidson, Forsyth, Randolph, Rockingham, Stokes or Yadkin counties.

3. Communications Program for Procurement

Upon request, the City will make available a list of proposed procurement opportunities to M/WBE associations, assistance agencies, and training resources. A copy of this information

will be maintained in the M/WBE office. The City will make available complete information on procurement items on its website. The City will conduct workshops where M/WBEs will have an opportunity to receive assistance in completing bid forms and receive clarification of any areas in which there are questions.

4. Other Technical Assistance

The City shall periodically hold workshops, seminars, or training sessions designed to acquaint M/WBEs with the City's procurement procedures and to provide technical assistance in bidding. The City shall utilize the service of minority/female trade and professional organizations. The City's M/WBE Program Coordinator shall be responsible for achieving this goal.

5. Payments

The City will meet its payment obligations in accordance with established City policy. Nevertheless, payments for products and commodities are to be paid within thirty (30) days after receipt of an approved invoice.

C. Responsibilities for the City – Professional Services

1. Appropriate City departments shall, pursuant to the approval of the annual budget, forward to the M/WBE Program office, a complete description of all projects planned for the year which would require consultative or other professional services estimated to incur \$20,000.00 or more in professional services fees. For those projects which are developed after the annual budget is approved, a complete description of such projects shall be forwarded to the M/WBE office. The M/WBE Program Office shall supply the departments with links to the NC HUB listing profiling those M/WBEs which specialize in areas of service needed by the City. The operating departments shall directly solicit those M/WBE firms possessing capabilities relevant to the project and having their principal place of business located in Guilford, Alamance, Davidson, Forsyth, Randolph, Rockingham, Stokes or Yadkin counties. For those projects requiring consultative or other professional services estimated to incur less than \$20,000.00 in professional services fees the M/WBE Program Coordinator, or designee, shall provide to the operating departments a listing of all M/WBEs certified by the North Carolina Secretary of Administration, possessing capabilities relevant to the project and having their principal place of business located in Guilford, Alamance, Davidson, Forsyth, Randolph, Rockingham, Stokes or Yadkin counties, if requested.
2. Selection Advisory Committees shall be utilized to review proposals for professional service contracts (i.e., architectural and engineering design, bankers, auditors, consultants and trainers) when the fees of the services are estimated to be \$20,000.00 or greater. The M/WBE Program Coordinator, or designee, will serve as a non-voting member of each committee.

3. The operating departments shall include in contract specifications specific instructions requiring contractors to not discriminate in its hiring, employment and contracting practices with reference to age, sex, race, color, religion, national origin or disability.
4. In the event of projects funded jointly by the City and private funds, the M/WBE Program office will be available to assist the operating department or the administering agency in the preparatory stages of the contract documents such that the appropriate M/WBE considerations can be developed and employed. These shall be no less than what the City normally requires.
5. The City will practice equal opportunity in the selection and use of banks, auditors, and insurance brokers that are M/WBEs. The City will investigate the full extent of services offered by these firms in the community and make the greatest use of their services that is feasible.
6. Monitoring of program compliance shall be a joint activity conducted by all departments in conjunction with the M/WBE office.

D. Responsibilities of the Contractor

Contractors will take affirmative steps prior to submission of bids to encourage participation in projects by M/WBEs. Such efforts shall include:

1. Segmenting total work requirements to permit maximum M/WBE participation;
2. Assuring that M/WBEs are solicited whenever they are potential sources of goods and services. This may include sending letters or making personal contacts with M/WBEs within a reasonable time prior to bid submission. Such letters and contacts should communicate the following:
 - a. Specific and accurate description of the work to be subcontracted;
 - b. How and where to obtain a copy of plans and specifications or other detailed price quotation information;
 - c. Date the quotation is due to the contractor for preparation of the bid; and
 - d. Name, address and phone number of person in the contractor's firm whom the prospective subcontractor should contact for additional information;
3. Sending letters or making local personal contact with local, state, federal, and private agencies and M/WBE associations relevant to the project. Such contacts should provide the same information provided in the direct contact to M/WBE firms;
4. Where feasible, establishing delivery schedules which will encourage participation by M/WBEs;

5. In determining the availability of M/WBEs, the relevant areas shall be the same as that used to solicit prime contractors and includes Guilford, Alamance, Davidson, Forsyth, Randolph, Rockingham, Stokes and Yadkin counties;
6. Attending the pre-bid conference;
7. Advertising in minority/women trade publications and minority/women owned media and other media formatted towards women and minorities within a reasonable time prior to bid submission. The publication should be one which reasonably covers the area of the project. The advertisement should be for specific subcontracts described in reasonable detail;
8. Providing bonding and insurance for M/WBEs who are unable to secure the bonding and insurance required by the contractor;
9. To demonstrate compliance with the above, the contractor should keep detailed records of all correspondence, responses to the aforementioned correspondence, logs of all telephone calls made and received regarding the project; and the copies of all advertisements in minority and women-owned publications and media, as well as media formatted towards women and minorities; and
10. Required submission of a Contract M/WBE Utilization Report (Payment Certificate) included as Appendix H in the Special Instructions to Bidders, along with each request for payment. This document certifies payments made to M/WBE subcontractors included on or added to Appendix C, D, and/or Appendix E contained in bid documents. Contractors are required to pay subcontractors within the time constraints established by N.C.G.S. 143-134.1.

E. Joint Responsibilities of the City and Contractor

In order to coordinate good faith efforts to ensure that certified M/WBE producers of equipment and services are given equal opportunity to participate, there are certain joint responsibilities that will be exercised, including:

1. The City encourages contractors to make every reasonable effort to make technical assistance, such as engineering expertise, available to M/WBEs to assist in the upgrading of M/WBE capabilities;
2. The City encourages contractors to make bulk purchases whenever possible to reduce the capital requirements of the M/WBE subcontractors;
3. The City will comply with and require all contractors to comply with all applicable federal and state laws, regulations, and guidelines;
4. Periodically, as requested by the City, contractors will furnish regular reports and information sufficient to allow the City to determine that federal and state requirements are being met by the contractor. Contractors will, in good faith, cooperate with the City and with its

M/WBE Program Office in attempts to resolve any complaints of discrimination made against the contractors;

5. If a subcontractor is unable to perform successfully, the contractor will provide M/WBE firms with an equal opportunity to replace the nonperforming subcontractor;
6. Contractors will cooperate with the City in studies and surveys of the contractor's M/WBE procedures and practices;
7. Contractors will be required to submit periodic reports on subcontracting on City projects in such form and manner and at such time as the City may prescribe in the contract; and
8. The City will require contractors to report all suspected instances of companies fraudulently claiming M/WBE status in order to unjustly benefit from the requirements of the program.

F. Responsibilities of M/WBE Firms

M/WBE firms are responsible for self-promotion as it pertains to consideration in the contracting process. In addition to self-promotion, the following steps are strongly recommended for M/WBE firms considering contractual relations with the City of Greensboro:

1. Submit information to the contract recipients to identify firm status as that of a M/WBE;
2. Firms should become certified as M/WBEs under procedures detailed by the North Carolina Secretary of Administration;
3. Contact federal, state and local M/WBE liaison offices and directories to obtain information on potential opportunities;
4. Provide capability statements to state agencies, the City's M/WBE Program Office, consulting engineers, and contractors stating types of work performed by the firm, size of job that the firm can handle, bonding information and any special skills;
5. Make every effort to establish contacts and relationships with contractors for potential future business, including attending pre-bid conferences and subscribing to industry and trade journals; and
6. Use the lists of potential prime bidders and subcontractors to identify firm(s) to whom they would be interested in submitting quotes, without waiting for requests for quotes. M/WBEs shall also have the responsibility to respond promptly to solicitation requests.

VIII. M/WBE PROGRAM RECORDS, MONITORING AND THE USE OF VOLUNTARY GOALS

A. Program Monitoring

In order to monitor the implementation of the City's policy to provide M/WBEs an equal opportunity to participate in all aspects of the City's construction, procurement and professional service programs, participation at each stage of the contracting process will be documented and reported. This will include:

1. The number of M/WBEs available to provide goods and services;
2. The number of solicitations sent to M/WBEs;
3. The number of bids submitted by M/WBEs;
4. The number of contracts and subcontracts awarded to M/WBEs; and
5. The value of contracts and subcontracts awarded to M/WBEs.

As appropriate, the figures for M/WBE participation will be related to the total number of businesses participating. In determining the availability of M/WBEs the City shall consider M/WBEs in the same geographic area in which it considers contractors or subcontractors generally. This information will be differentiated by MBE, WBE and HUB status, by prime and subcontracting level, by classification of goods or services purchased, by procurement and construction and by types of construction program (occasional or on-going City program, DOT, or other assisted program). The City will include in its Procurement M/WBE utilization reports the number of opportunities to bid made available to M/WBEs.

Each operating department shall be responsible for submitting this information to the M/WBE office semiannually. Reports containing these measurements will be made by the M/WBE Program Coordinator to the City Manager.

B. Calculation of M/WBE Participation in Contracts Awarded

The degree of participation by minority-majority joint ventures, M/WBE contractors and M/WBE suppliers in contracts awarded will be calculated as follows:

1. Once a firm is determined to be an eligible M/WBE in accordance with this M/WBE plan, the total dollar value of the contract awarded to the M/WBE, including sales tax and contingency, is counted as participation.
2. The total dollar value of a contract to a M/WBE owned and controlled by both minority males and non-minority females is counted as participation for minorities and women respectively, in proportion to the percentage of ownership and control of each group in business. The total dollar value of a M/WBE owned and controlled by minority women is counted as either

the minorities' or women's participation, but not both. The M/WBE Program Coordinator may choose to which the credit will apply.

3. The City may count as its M/WBE participation a portion of the total dollar value of a contract with a joint venture eligible under the standards of the M/WBE plan equal to the percentage of the ownership and control of the M/WBE partner in the joint venture.

4. The City may count as its M/WBE participation only expenditures to M/WBEs that perform a significant function in the work of a contract. A M/WBE is considered to perform a significant function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a M/WBE is performing a significant function, the City will take into account the amount of work subcontracted, industry practices, and other relevant factors.

5. Consistent with normal industry practices, a M/WBE may enter into subcontracts. If a M/WBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the M/WBE will be presumed not to be performing a significant function. The M/WBE may present evidence to rebut this presumption to the City.

C. General Provisions for Overall Voluntary Construction, Procurement, and Professional Services Goals

Separate goals for participation in awarded contracts by businesses owned and controlled by minorities (MBEs) and for firms owned and controlled by women (WBEs) will be set for the City's construction, procurement and professional services programs.

The overall voluntary goals established annually by the M/WBE Program Coordinator and approved by the City Manager for City construction, procurement and professional service programs will include:

1. Goal for MBE participation in City construction expenditures.
2. Goal of WBE participation in City construction expenditures.
3. Goal for MBE participation in City procurement expenditures.
4. Goal for WBE participation in City procurement expenditures.
5. Goal for MBE participation in City professional service expenditures.
6. Goal for WBE participation in City professional service expenditures.

Utilizing the measurements listed in Section IX, above, the City will evaluate the M/WBE program's implementation annually and revise these goals appropriately. Additionally,

the City's M/WBE Program Coordinator, or designee, may establish project-specific goals for participation.

The goals for the utilization of minority and women business enterprises are:

- Minority Business participation in construction services:
 - African Americans10%
 - Hispanic Americans02%
 - Native Americans.....02%
- Women Business participation in construction services.....10%
- Minority Business participation in City procurements:
 - African Americans10%
 - Hispanic Americans02%
 - Native Americans.....02%
- Women Business participation in City procurements.....10%
- Minority Business participation in professional and consultative services:
 - African Americans10%
 - Hispanic Americans02%
 - Native Americans.....02%
- Women Business participation in professional and consultative services.....10%
- City of Greensboro's Overall M/WBE participation goal24%

Utilization of any firm certified as a historically underutilized business by the North Carolina Secretary of Administration, but not listed above shall be credited toward a contractor's Good Faith Efforts in achieving M/WBE participation.

D. Documenting Attainment of M/WBE Requirements

In order that the City Manager, through the City's M/WBE Program Coordinator, may make periodic reports to the City Council as to the responsiveness of bidders, bidders shall submit the following information on each M/WBE-related subcontract:

1. A description of the subcontractors and purchases of significant equipment and supplies to be used to perform the prime contract, including the name and address of each M/WBE firm selected, and the name of the contact person and telephone number.
2. The dollar amount of participation of each M/WBE.
3. A statement from the M/WBE subcontractor or material supplier, identified in section 1 above, that they have subcontracted for labor, materials, or supplies and setting forth the amount thereof.

IX. PROCEDURES TO ENSURE THAT PRIME CONTRACTORS MAKE GOOD FAITH EFFORTS TO PROVIDE EQUAL OPPORTUNITY TO M/WBES IN CITY CONSTRUCTION PROGRAMS

A. Documentation of Good Faith Efforts

For construction contracts in the amount provided by G.S. 143-128.2, or any local act pertaining thereto, bidders shall submit documentation that the contractor has made sufficient good faith efforts to provide equal opportunity for M/WBEs certified with the North Carolina Secretary of Administration to participate in subcontracting and significant material supplier opportunities available under the prime contract. However, the City will inform bidders that the contractor will not be required to submit such documentation if M/WBE participation in the contract is equal to or exceeds the overall City goals or the project-specific goals, if established for the particular project.

Contractors who propose to perform the total contract with their own work forces and without the use of subcontractors will be required to submit information sufficient for the City to determine:

that it is a normal business practice of the contractor to perform all elements of the contract with its own work forces without the use of subcontractors,

or

that the contractor in fact has demonstrated its capabilities to perform all elements of the contract with its own work force without the use of subcontracts by providing a copy of contracts of a similar nature performed within the past three years. Submitted documentation will indicate project name, owner, and contact information.

Such contractors will not be required to subcontract or document good faith efforts to do so. They will be required to document good faith efforts to provide equal opportunity for M/WBEs to participate in significant material supplier opportunities available under the prime contract.

During bid review, the City will make a determination of M/WBE compliance. If the apparent low bidder is found in noncompliance or fails to provide the documentation, the operating department may make a recommendation for rejection of this bid and recommend award to the next lowest responsive bidder.

Upon being named apparent low bidder, the Bidder shall provide a Letter of Intent to perform as a subcontractor (Appendix D) and/or a Letter of Intent to Provide Materials or Supplies (Appendix E), within three (3) working days after the bid opening, complete with a description of the scope of services, M/WBE vendor number, and dollar value from each M/WBE firm proposed for use in this contract. Failure may result in rejection of the bid and award to the next lowest responsible and responsive bidder. The City reserves the right to waive any irregularities in M/WBE documentation if the City finds it to be in its best interest to do so and award the contract.

All contracts between the City and a Contractor shall contain provisions to the effect that failure by the Contractor to adequately document good faith efforts to subcontract with M/WBEs shall subject the bid to rejection as being non-responsive.

B. Mandatory Acts of Good Faith Effort

1. Using the source list provided by the North Carolina Secretary of Administration, the bidder, including those certified as M/WBEs, shall solicit sub-bids and material quotes from individual certified M/WBEs having their principal place of business located in Guilford, Alamance, Davidson, Forsyth, Randolph, Rockingham, Stokes or Yadkin counties. The bidder shall solicit bids and quotes from M/WBEs with reasonable advance notice to ensure that M/WBEs will have an adequate opportunity to respond. In soliciting sub-bids and quotes, the bidder shall furnish at least the following information:

- a. Bidder's name, address and telephone number;
- b. Project location and description;
- c. Work to be subcontracted or materials purchased, including a specific description of the work involved;
- d. Location and availability of plans, drawings and specifications for review;
- e. The identity and contact information of the bidders' contracting representative; and
- f. Location, date and time when sub-bids and quotes must be received by the bidder.

If the bidder does not receive a response from a M/WBE, he/she must advise the City that no response was received.

2. A contractor will consider all sub-bids and quotes received from M/WBEs, not rejecting M/WBEs as unqualified without sound reasons based on a thorough understanding of their capabilities. If a subcontract is not awarded to a M/WBE, the contractor must document why. This requirement also applies to contractors and subcontractors, regardless of tier, who are themselves, certified by the North Carolina Secretary of Administration as a M/WBE or joint venture at least 51% owned and controlled by M/WBEs. A contractor at any tier shall include this requirement and all other requirements of this plan in any subcontract it may use to fulfill contractual obligations with the City.

3. A contractor will not reject the proposal of a M/WBE on the basis that the M/WBE is unable to secure the necessary bonding. Rather, the contractor must either waive the requirement of bonding or provide the necessary bonding on behalf of the M/WBE.

C. Other “Good Faith Effort” Consideration

In determining whether the bidder has made good faith efforts, the City will evaluate all efforts made by the Contractor and will determine compliance and results of these efforts. The City will take into account any or all of the following:

1. Whether the contractor attended any pre-solicitation or pre-bid meetings that were scheduled by the City;
2. Whether the contractor advertised in general circulation, trade association, and minority-focused media concerning the subcontracting opportunities;
3. Whether the contractor provided written notice to a reasonable number of specific M/WBEs that their interest in the contract was being solicited in sufficient time to allow the M/WBEs to participate effectively;
4. Whether the contractor followed up initial solicitations of interest by contacting M/WBEs to determine with certainty whether the M/WBEs were interested;
5. Whether the contractor selected portions of the work to be performed by M/WBEs in order to increase the likelihood of meeting M/WBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate M/WBE participation);
6. Whether the contractor provided interested M/WBEs with adequate information about the plans, specifications, and requirements of the contract;
7. Whether the contractor negotiated in good faith with interested M/WBEs, not rejecting M/WBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
8. Whether the contractor effectively used the services of the City’s available minority community organizations, minority contractors’ groups, local, state and federal minority business assistance offices, and other organizations that provide assistance in the recruitment and replacement of M/WBEs; and
9. Whether “other” North Carolina Secretary of the Administration HUB categories were utilized in addition to M/WBE categories that are recognized by the City of Greensboro (African Americans, Hispanic Americans, Native Americans and Women).

D. Review of Good Faith Effort Documentation

1. All contracts between the City and a contractor will contain an appropriate provision to the effect that failure by any contractor to comply with such requirements as are described in this document will constitute a breach of contract exposing the contractor to a potential termination of the contract or other appropriate remedy in accordance with the termination provisions of the contract.

2. All contracts and procurement agreements will contain a provision that all documents and information submitted by a successful bidder will become a legal and binding part of the final contract document.
3. A finding by the City that any of the information submitted is inaccurate, false or incomplete will constitute grounds for a finding that a bid is non-responsive and may result in rejection of the bid or termination of the contract.
4. During the contract period, all M/WBE requirements will apply to change orders, additions, or replacements of subcontractors. The contractor is responsible for notifying the City of problems arising from M/WBE performance and possible contract changes prior to removing any M/WBE subcontractor or making major changes in their contract amendments.
5. If, during the performance of the contract, the contractor is found not to be fulfilling commitments to utilize M/WBE firms, the penalty (if such a provision is included) may be imposed until the matter is resolved, or, if it cannot be resolved, the sanction described below will be utilized.
6. Contractors who may be aggrieved by such action may present such grievance in accordance with the Section X of this plan.

E. Competitive Bids

Nothing in this plan is to be construed to require contractors to award subcontractors to, or make significant material purchases from M/WBEs who do not submit the lowest responsive sub-bid.

F. Determination of Program Compliance

1. All bids will be reviewed by the operating department and other representatives as appropriate.
2. Upon receipt of the M/WBE documentation from the apparent low bidder, the operating department shall review the documentation and make initial determination as to whether or not the bidder is in compliance with the M/WBE Plan. If the bidder is determined to be in compliance, the operating department shall review the documentation with the M/WBE Program Coordinator. If the operating department and the M/WBE Program Coordinator determine the bid to be in compliance with the M/WBE Plan, the operating department shall recommend award of the contract to the City Manager.
3. If the operating department and the M/WBE Program Coordinator determine the bid to be in non-compliance with the M/WBE Plan, they shall confer with the City Attorney prior to making any recommendation for rejection of the bid. Copies of all documentation reviewed will be provided to the City Attorney. The operating department may reject the bid or refer the matter to the "Good Faith" Committee as outlined below. If the operating department rejects the bid the contractor may appeal that decision in accordance with the City's bid protest procedures.

4. Each operating department will monitor its project for compliance to the M/WBE Plan provisions for the life of the contract. This can be done through documentation, site visits, inspections, etc., with periodic reports to the M/WBE Program Office.

5. Problems with compliance when appropriate will be referred to the “Good Faith” Committee which shall be comprised of a representative from the M/WBE Advisory Committee and may be comprised of a representative from Engineering and Inspections, Purchasing, Human Relations, Housing and Community Development, Transportation, Water Resources and the EEO/AA Officer. The City Manager or his designee will appoint the Chairperson of the Committee. M/WBE Staff and a representative from the Legal Department will serve as liaison to the Committee.

Upon a preliminary determination of noncompliance by the operating department and M/WBE Coordinator, the “Good Faith” Committee shall receive all supporting data of good faith effort from the M/WBE Coordinator and shall cause a contractor to be duly notified that the “Good Faith” Committee shall conduct a hearing with the contractor and/or his representative. The Contractor may be represented by counsel and may present evidence and submit documentation pertaining to good faith efforts to provide equal opportunity for M/WBEs certified with the North Carolina Secretary of Administration to participate in subcontracting and significant material supplier opportunities available under the prime contract.

The “Good Faith” Committee will make a determination on the adequacy of the good faith efforts and report its findings and any sanctions imposed to the Contractor within five (5) calendar days of the conclusion of the hearing. The contractor may appeal the decision rendered by the “Good Faith” Committee to the City Manager, or his designee in writing within five (5) calendar days of notification of the Committee’s decision, but not otherwise.

The City Manager, or designee, shall schedule a hearing with the Contractor and/or its representative. The record of the “Good Faith” Committee hearing shall be presented on behalf of the Contractor and the City. The City Manager, or designee, shall make a decision and notify the Contractor within five (5) calendar days following the hearing. The decision of the City Manager, or designee, shall be final.

G. Remedies for Failure to Adequately Document Good Faith Efforts

Where there are minority/women business enterprise firms certified with the North Carolina Secretary of Administration and available for subcontracting, failure by the contractor to comply with pre-bid requirements under Section V, Subsection D, or to adequately document good faith efforts to subcontract with the M/WBE firms or to purchase significant material supplies from M/WBE firms shall subject the contractor to any one of the following actions:

1. Failure by the contractor to adequately document good faith efforts to subcontract with M/WBEs will subject the bid to rejection as being non-responsive;

2. If the contractor is found to be in non-compliance and fails to correct such noncompliance within ten (10) working days after notification, the City will withhold 5% of the amount of

completed work on all monthly payments until good faith effort requirements are satisfied. (The ten (10) working days to correct non-compliance is not applicable to bid rejection for failure of the contractor to document good faith efforts to utilize M/WBEs prior to submission of bids.);

3. The contractor shall pay monetary damages to the City of Greensboro in an amount set by the “Good Faith” Committee of up to five percent (5%) of the contract price, including any change orders, sales taxes and contingency;

4. This shall be deemed an element of “poor performance” and grounds to suspend the contractor from bidding on future City contracts for a specified period of time; and

5. Termination for breach of contract for noncompliance, provided a reasonable time shall be given the contractor to comply.

In the event any of the remedies set forth above are to be utilized, then appropriate provisions shall be contained in the contract specifications which will expose the contractor to any of those remedies so set out therein.

X. GRIEVANCE PROCEDURE

Any person aggrieved by implementation of the M/WBE program may present such grievance to the City. A written description of the grievance with appropriate supporting evidence shall be presented to the M/WBE Program Coordinator. The M/WBE Program Coordinator will review the grievance and supporting evidence and make a written response to the participant within ten (10) working days. In the event the participant is not satisfied, said participant may appeal the grievance by filing a written description thereof and supporting evidence with the City Manager. The City Manager shall hear the grievance within ten (10) working days and shall make a decision thereon, which decision shall be final. Any participant not satisfied by a decision of the City Manager may seek any remedy available under the law.

M/WBE Plan Amended/Revised:

<<DATE>>